

E-111/C-93-217 ORDER APPROVING RIDER IN LIEU OF FURTHER
CONSIDERATION OF COMPLAINT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
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Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Complaint
of the City of Miesville,
Minnesota Against Dakota
Electric Association

ISSUE DATE: May 14, 1993

DOCKET NO. E-111/C-93-217

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FURTHER CONSIDERATION OF
COMPLAINT

PROCEDURAL HISTORY

On February 16, 1993, the City of Miesville (the City) filed a complaint against its electric utility provider, Dakota Electric Association (Dakota or the Company). The City contested the equity of Dakota's serving the City's Fire Department under its newly approved Small General Service: Schedule 41. The City stated that in December 1990 the Dakota informed the City that service for the Fire Department would be placed on the Company's Residential, Farm, and Small Commercial General Rate Schedule 31 which contained no demand charge. The City alleged that the Company knew at that time and should have informed the City that it planned to file a rate case in early 1991 which would place service for the Fire Department under a new tariff (Small General Service: Schedule 41) which would render the Fire Department potentially subject to a demand charge.

On March 30, 1993, Dakota filed a response to the City's complaint. The Company gave its account of the events leading up to the filing of the City's Complaint, reviewed the subsequent responsive actions of its Board of Directors and members, and offered a rider to Schedule 41 as a means of resolving the complaint.

On April 13, 1993, the Minnesota Department of Public Service (the Department) filed its comments. The Department stated that utilities cannot be expected to absorb all the risks related to rate design and recommended that the Commission dismiss the City's complaint. The Department also recommended that the Commission approve Dakota's proposed rider to its Small General Service tariff.

On April 14, 1993, the City filed response comments concurring with the rider proposed by Dakota in its March 30, 1993 filing, urging the Commission to approve the proposed rider, and indicating that this would resolve its complaint.

On April 29, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

The heart of the City's complaint is that it was misled by Dakota in discussions about service options for a future water pump to be used by the City's volunteer fire department. These discussions led the City to request installation of a service extension which the utility installed in November 1991.

Specifically, the City alleged that Dakota represented that it would be providing electric service to operate the City Fire Department's water pump under Dakota's Schedule 31/Residential, Farm, and Small Commercial General Rate which contained no demand charge. According to the City, Dakota made these representations knowing an important thing that it did not disclose to the City and that the City did not know: that the Company was about to ask the Commission to approve new tariffs and that as soon as those new tariffs were approved by the Commission, the Company would begin serving the Fire Department under a new tariff: Schedule 41/Small General Service. The new tariff that the Company planned to apply to the City's Fire Department contained a provision that after exceeding a 15 kW per month demand level for three consecutive months a Schedule 41/Small General Service customer would be automatically transferred to Schedule 42/General Service which does include a demand charge.

In December 1991, the Commission approved Dakota's proposed tariff (Schedule 41/Small General Service) and the Company began to serve the Fire Department under that newly approved tariff in January 1992. As proposed by the Company and approved by the Commission, a Schedule 41 customer is switched to Schedule 42 if its usage exceeds 15 kW usage during three consecutive months. Schedule 42, along with a monthly fixed charge and energy charge, includes a demand charge. Though it has yet to exceed the 15 kW/three month threshold, the City is concerned that it will exceed that threshold and be switched to the tariff that includes a demand charge. If this were to happen and the City were billed at the Schedule 42/General Service rate, the City would experience significant bill increases due to its relatively low load factor.

The Department did not view the allegedly misleading discussions as critical. The Department characterized Dakota's alleged action or inaction simply as a "missed opportunity to inform its customers of potential service changes." The Department reasoned that since customers must bear some of the risk related to changes in rate design, the Commission should reject the City's Complaint.

In response to the City's complaint, however, Dakota proposed a rider to its Small General Service tariff that would waive the demand threshold provision for qualifying water pumps. Under this rider, a qualifying volunteer fire department could use a single motor of 50 horsepower or less to operate a single water pump solely for responses to fire emergencies and the training of volunteer firefighters under the Small General Service rate (no demand charge) regardless of the amount of usage. Water pumps such as the City's would qualify for rider treatment provided they continued to be used solely for responses to fire emergencies and the training of volunteer firefighters.

The Department advised and the Commission finds that Dakota's proposed rider is compatible with the principle of seeking the most efficient allocation of society's scarce resources and is not unreasonably preferential or unreasonably discriminatory under Minn. Stat. § 216B.03 (1992). In addition, the Commission finds that the rider does not violate the conservation priority stated in Minn. Stat. § 216B.03 (1992).

Efficient Allocation of Society's Resources

In general, it is desirable that a rate design give customers appropriate price signals as to the costs they impose upon the system. The concept of efficient allocation of society's resources is not so inflexible, however, that it does not incorporate other important policy objectives. In this case, the Commission finds that the goal sought by Dakota (rate relief for volunteer fire departments) is appropriately grounded in an important social policy goal (i.e. public safety). Given this consideration, the rate charged under the rider is just and reasonable as required by Minn. Stat. § 216B.03 (1992).

Unreasonable Discrimination Prohibited

Minn. Stat. § 216B.03 (1992) states in part:

Rates shall not be unreasonably preferential,...
prejudicial or discriminatory....

Again, the key test is "reasonableness". The Commission finds that the pricing preference proposed for the benefit of qualifying volunteer fire department water pumps is reasonable due to the link to the public safety in the area served by the

utility. It is, of course, important that Dakota has designed its rider to apply to all fire departments meeting the specific criteria and restricts its application to usage closely related to the public safety purpose.

Commission Action

Having found that the rider does not conflict with the goal of efficiently allocating society's scarce resources and is not unreasonably discriminatory, the Commission will approve the Company's proposed rider.

Regarding the City's complaint, the Commission does not take lightly allegations that a utility has misled its customers to their detriment. However, with the rider in place to the City's satisfaction, the concern that occasioned the City's complaint is addressed. In these circumstances, the Commission finds it unnecessary to determine 1) whether Dakota did, in fact, materially mislead the City and 2) if so, what the proper remedy would be. Accordingly, upon receipt of an altered tariff containing the proposed rider the Commission will simply discontinue consideration of the City's complaint.

ORDER

1. The proposal by Dakota Electric Association to offer a rider to its Small General Service: Schedule 41 is approved.
2. Within 10 days of this Order, Dakota Electric Association shall file a tariff for its Small General Service: Schedule 41 containing the approved rider language.
3. Upon receipt of the filing required in Ordering Paragraph 2, consideration of the City of Miesville's Complaint will be discontinued and the docket closed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)